

NTSB Order No. EA-5002

Issued under delegated authority (49 C.F.R. 800.24)  
on the 21<sup>st</sup> day of October, 2002

Docket SE-16516

(a) A party may appeal from a law judge's order or from

motion, to which respondent filed a reply in opposition.

Respondent's faxed answer to the motion gives no reason for the untimeliness of his notice of appeal. Without good cause to excuse a failure to file a notice of appeal or appeal brief on time, a party's appeal must be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988). Respondent's possible mistake in computing the filing deadline for his notice of appeal would not constitute good cause. See, e.g., Administrator v Near, 5 NTSB 994 (1986)(Unfounded error in determining due date does not excuse procedural default).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Ronald S. Battocchi  
General Counsel

(..continued)

the initial decision by filing with the Board and serving upon the other parties (pursuant to § 821.8) a notice of appeal within 10 days after an oral initial decision has been rendered or a written decision or a final or appealable (see § 821.16) order has been served.

Respondent's notice of appeal was not filed until July 26, one day late. Respondent's brief (a one-page letter) in support of his appeal was also late, as it was due on August 14 (30 days after service of the law judge's decision), but not filed until August 16. See Section 821.48(a). Under these rules, the time for filing a notice of appeal or appeal brief runs from the service date of the law judge's decision, not from the date the party receives the decision. A copy of the Board's rules of practice had been sent to respondent when his tardy appeal from the Administrator's order was received by the Board.